

REMARKS

The Examiner has restricted this application to one of the following inventions under 35 U.S.C. § 121:

- I. Claims 1-16, drawn to a computer system having different computer components and linking programs.
- II. Claims 17-29, drawn to a method for billing individuals.
- III. Claims 30-33, drawn to a computer program for billing.
- IV. Claim 34, drawn to a method for tracking and recording patient treatments.
- V. Claim 35, drawn to a method for providing a point of service medical billing with diagnosis codes and procedural codes using 2 computers.
- VI. Claim 36, drawn to a method of providing point of service medical billing using a back end computer.
- VII. Claims 37-41, drawn to software for billing medical care.
- VIII. Claims 42-46, drawn to a method for collecting data for medical billing.
- IX. Claims 47-49, drawn to a computer system for medical billing.
- X. Claims 50-67, drawn to software article for point of care billing.

The Applicant provisionally elects Group V, claim 35, drawn to a method for providing a point of service medical billing with diagnosis codes and procedural codes using 2 computers.

The Applicant cancels Groups I-IV (claims 1-34) and Groups VII-X (claims 37-67) without prejudice. The Applicant reserves the right to file a continuation or divisional application for the claims not elected. In addition, the Applicant respectfully traverses restriction/election as to Group VI (claim 36) as claim 36 is not a separate and distinct invention and therefore the Examiner should withdraw these restrictions. In addition, the Applicant has added dependent

claims 68-77 that depend from claim 35. The Applicant has also added software claims 78-83 that are substantially parallel to claim 35 for performing the method of claim 35 and therefore this set of new claims should also be examined.

The Examiner provided what is stylized as a restriction/election requirement. Therefore, it is not clear what is considered a separate invention and what is considered a separate species.

The Examiner has provided no meaningful rationale for a restriction/election requirement here. It is the undersigned's understanding that due to pressures within the Patent Office, Patent Examiners may be encouraged to make restriction/election requirements in order to reduce the time spent on a particular case. For example, here, it appears that the restriction requirement was made on the basis that each independent claim was considered a separate species/invention. Neither the Examiner nor Patent Office can shirk the proper legal standards (i.e. 35 U.S.C. § 121) to apply in the interest of administrative convenience. The Applicant should be entitled to a meaningful rationale for any restriction/election requirement made.

Regardless, both claims 35 (Group V) and 36 (Group VI) are drawn to a method for providing a point of service medical billing with diagnosis codes and procedural codes using 2 computers. In order for a restriction requirement to be proper, claims 35 and 36 must be both "independent" and "distinct." 35 U.S.C. § 121.

"The term "independent" (i.e., not dependent) means that there is no disclosed relationship between the two or more subjects disclosed, that is, they are unconnected in design, operation, or effect, for example: (1) species under a genus which species are not usable together as disclosed; or (2) process and apparatus incapable of being used in practicing the process." MPEP § 802.01

The term "distinct" means that two or more subjects as disclosed are related, for example, as combination and part (subcombination) thereof, process and apparatus for its practice, process and product made, etc., but are capable of separate manufacture, use, or sale as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER (though they may each be unpatentable because of the prior art). It will be noted that in this definition the term related is used as an alternative for dependent in referring to subjects other than independent subjects. MPEP § 802.01.

The Examiner has not indicated how claims 35 and 36 are considered independent and distinct. Therefore, this requirement should be withdrawn.

NEW CLAIMS

New claims 68-77 have been added that depend from claim 35. In addition, new independent claim 78 has been added with dependent claims 79-83. New independent claim 78 is to a software article that performs the method of claim 35. Therefore, these new claims should not be considered separate and distinct from claim 35 as the software article claimed performs the process and is therefore not independent and distinct. Favorable action is respectfully requested.

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Proper consideration and passage to allowance are respectfully requested. Should the Examiner have any questions about the case or this amendment, or in an effort to reach agreement as to patentability he is respectfully invited and encouraged to contact the undersigned

counsel at (515) 288-3667. Should the case not be allowed, following an action on the merits,
the Applicant will likely seek to arrange a personal interview with the Examiner.

Respectfully submitted,



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